

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1221

Introduced by Assembly Members Steinberg and Campbell

February 21, 2003

An act to amend ~~Section 201 of~~ Section 29530 of the Government Code, to amend Sections 6051, 6201, 7202, and 7203 of, and to add Section 97.68 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1221, as amended, Steinberg. ~~Property taxation~~ Taxation.

(1) Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that

county for allocation to school districts, community college districts, and the county office of education.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of 1¹/₄%, and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales tax rate of 1% that is credited against the county rate. Existing law requires a city, county, or city and county imposing a local sales and use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to contract with the State Board of Equalization to administer the local sales and use tax. Existing law also requires the board, at least twice during each calendar quarter, to transmit local sales and use tax revenue to the city, county, or city and county in which the revenue was collected.

This bill would, on and after July 1, 2004, prohibit a city from imposing a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law at a rate in excess of ¹/₂ of 1% and prohibit a county from imposing sales and use tax under that law at a rate in excess of ³/₄ of 1%.

This bill would also, for the 2004–05 fiscal year, increase the amount of ad valorem property tax revenue deemed allocated to a county or city in the 2003–04 fiscal year by that county or city’s reimbursement amount, as defined, and correspondingly decrease the amount of ad valorem property tax revenue allocated to a county’s Educational Revenue Augmentation Fund by the countywide adjustment amount, as defined. This bill would also require the board to make certain calculations and to notify county auditors of these calculations. This bill would render inoperative other provisions of the bill if a specified statute is amended in a manner that reduces the amount of ad valorem property tax revenue that is allocated to cities and counties under the bill. This bill would also make conforming changes to corresponding provisions. By imposing new duties upon local tax officials in the annual allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

(2) The California Constitution requires for each fiscal year that a minimum amount of money, computed under one of 3 formulas, be set aside from all state revenues for the support of school districts and community college districts.

This bill would state the intent of the Legislature that the state maintain its aggregate funding obligations under these provisions.



(3) *The Sales and Use Tax Law provides for the levy of a state sales and use tax upon the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property.*

This bill would, on and after July 1, 2004, increase the sales and use tax rate under that law by $\frac{1}{2}$ of 1%.

This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing property tax law provides that all property in this state, not exempt under the laws of the United States or of this state, is subject to taxation.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 201 of the Revenue and Taxation Code~~

2 *SECTION 1. This act shall be known and may be cited as the*
3 *California Balanced Communities Act of 2003.*

4 *SEC. 2. Section 29530 of the Government Code is amended to*
5 *read:*

6 29530. (a) If the board of supervisors so agrees by contract
7 with the State Board of Equalization, the board of supervisors shall
8 establish a local transportation fund in the county treasury and
9 shall deposit in the fund all revenues transmitted to the county by

1 the State Board of Equalization under Section 7204 of the Revenue
2 and Taxation Code, which are derived from that portion of the
3 taxes imposed by the county at a rate in excess of 1 percent, *and*
4 *on and after July 1, 2004, in excess of one-half of 1 percent,*
5 pursuant to Part 1.5 (commencing with Section 7200) of Division
6 2 of that code, less an allocation of the cost of the services of the
7 State Board of Equalization in administering the sales and use tax
8 ordinance related to the rate in excess of 1 percent, *and on and*
9 *after July 1, 2004, in excess of one-half of 1 percent,* and of the
10 Director of Transportation and the Controller in administering the
11 responsibilities assigned to him or her in Chapter 4 (commencing
12 with Section 99200) of Part 11 of Division 10 of the Public
13 Utilities Code.

14 ~~Any~~

15 (b) Any interest or other income earned by investment or
16 otherwise of the local transportation fund shall accrue to and be a
17 part of the fund.

18 SEC. 3. Section 97.68 is added to the Revenue and Taxation
19 Code, to read:

20 97.68. (a) Notwithstanding any other provision of this
21 chapter, for purposes of annual ad valorem property tax revenue
22 allocations in the 2004–05 fiscal year, all of the following apply:

23 (1) The total amount of ad valorem property tax revenue
24 deemed allocated to a county in the 2003–04 fiscal year shall be
25 increased by the county reimbursement amount.

26 (2) The total amount of ad valorem property tax revenue
27 deemed allocated to a city in the 2003–04 fiscal year shall be
28 increased by that city's city reimbursement amount.

29 (3) The total amount of ad valorem property tax revenue
30 deemed allocated to a county's Educational Revenue
31 Augmentation Fund in the 2003–04 fiscal year shall be reduced by
32 the countywide adjustment amount.

33 (b) For the 2004–05 fiscal year and each fiscal year thereafter,
34 ad valorem property tax revenue allocations made pursuant to
35 Section 96.1 shall fully incorporate the allocation adjustments
36 required by this section.

37 (c) Any reduction resulting from subdivision (a) in the amount
38 of ad valorem property tax revenue deposited in a county's
39 Educational Revenue Augmentation Fund shall be applied
40 exclusively to reduce the amount of revenue allocated from that

1 *fund to school districts and county offices of education, and may*
2 *not be applied to reduce the amount of revenue allocated from that*
3 *fund to community college districts.*

4 *(d) For purposes of this section:*

5 *(1) "City reimbursement amount" means the difference*
6 *between the following two amounts:*

7 *(A) The amount of revenue that a city would have received*
8 *pursuant to Section 7204 in the 2003–04 fiscal year if that city had*
9 *imposed a sales and use tax at a rate of one-half of 1 percent.*

10 *(B) The amount of revenue that the city received pursuant to*
11 *Section 7204 the 2003–04 fiscal year.*

12 *(2) "County reimbursement amount" means the difference*
13 *between the following two amounts:*

14 *(A) The amount of revenue that the county would have received*
15 *pursuant to Section 7204 in the 2003–04 fiscal year if that county*
16 *had imposed a sales and use tax at a rate of three-quarters of 1*
17 *percent.*

18 *(B) The amount of revenue that the county received pursuant to*
19 *Section 7204 in the 2003–04 fiscal year.*

20 *(3) "Countywide adjustment amount" means the combined*
21 *total amounts determined pursuant to paragraphs (2) and (3) for*
22 *the county and each city in that county.*

23 *(4) The board shall make the calculations specified in*
24 *paragraphs (1) and (2), and shall notify the auditor of each county*
25 *of these amounts on or before July 14, 2004.*

26 *SEC. 4. Section 6051 of the Revenue and Taxation Code is*
27 *amended to read:*

28 *6051. For the privilege of selling tangible personal property*
29 *at retail a tax is hereby imposed upon all retailers at the rate of 2¹/₂*
30 *percent of the gross receipts of any retailer from the sale of all*
31 *tangible personal property sold at retail in this state on or after*
32 *August 1, 1933, and to and including June 30, 1935, and at the rate*
33 *of 3 percent thereafter, and at the rate of 2¹/₂ percent on and after*
34 *July 1, 1943, and to and including June 30, 1949, and at the rate*
35 *of 3 percent on and after July 1, 1949, and to and including July*
36 *31, 1967, and at the rate of 4 percent on and after August 1, 1967,*
37 *and to and including June 30, 1972, and at the rate of 3³/₄ percent*
38 *on and after July 1, 1972, and to and including June 30, 1973, and*
39 *at the rate of 4³/₄ percent on and after July 1, 1973, and to and*
40 *including September 30, 1973, and at the rate of 3³/₄ percent on*

1 and after October 1, 1973, and to and including March 31, 1974,
2 and at the rate of $4\frac{3}{4}$ percent ~~thereafter~~ *to and including June 30,*
3 *2004, and at the rate of $5\frac{1}{4}$ percent on and after July 1, 2004.*

4 SEC. 5. Section 6201 of the Revenue and Taxation Code is
5 amended to read:

6 6201. An excise tax is hereby imposed on the storage, use, or
7 other consumption in this state of tangible personal property
8 purchased from any retailer on or after July 1, 1935, for storage,
9 use, or other consumption in this state at the rate of 3 percent of the
10 sales price of the property, and at the rate of $2\frac{1}{2}$ percent on and
11 after July 1, 1943, and to and including June 30, 1949, and at the
12 rate of 3 percent on and after July 1, 1949, and to and including July
13 31, 1967, and at the rate of 4 percent on and after August 1, 1967,
14 and to and including June 30, 1972, and at the rate of $3\frac{3}{4}$ percent
15 on and after July 1, 1972, and to and including June 30, 1973, and
16 at the rate of $4\frac{3}{4}$ percent on and after July 1, 1973, and to and
17 including September 30, 1973, and at the rate of $3\frac{3}{4}$ percent on
18 and after October 1, 1973, and to and including March 31, 1974,
19 and at the rate of $4\frac{3}{4}$ percent ~~thereafter~~ *to and including June 30,*
20 *2004, and at the rate of $5\frac{1}{4}$ percent on and after July 1, 2004.*

21 SEC. 6. Section 7202 of the Revenue and Taxation Code is
22 amended to read:

23 7202. The sales tax portion of any sales and use tax ordinance
24 adopted under this part shall be imposed for the privilege of selling
25 tangible personal property at retail, and shall include provisions in
26 substance as follows:

27 (a) A provision imposing a tax for the privilege of selling
28 tangible personal property at retail upon every retailer in the
29 county at the rate of $1\frac{1}{4}$ percent, *and on and after July 1, 2004,*
30 *three-quarters of 1 percent,* of the gross receipts of the retailer
31 from the sale of all tangible personal property sold by that person
32 at retail in the county.

33 (b) Provisions identical to those contained in Part 1
34 (commencing with Section 6001), insofar as they relate to sales
35 taxes, except that the name of the county as the taxing agency shall
36 be substituted for that of the state and that an additional seller's
37 permit shall not be required if one has been or is issued to the seller
38 under Section 6067.

39 (c) A provision that all amendments subsequent to the effective
40 date of the enactment of Part 1 (commencing with Section 6001)

1 relating to sales tax and not inconsistent with this part, shall
2 automatically become a part of the sales tax ordinance of the
3 county.

4 (d) A provision that the county shall contract prior to the
5 effective date of the county sales and use tax ordinances with the
6 State Board of Equalization to perform all functions incident to the
7 administration or operation of the sales and use tax ordinance of
8 the county. Any such contract shall contain a provision that the
9 county agrees to comply with the provisions of Article 11
10 (commencing with Section 29530) of Chapter 2 of Division 3 of
11 Title 3 of the Government Code.

12 (e) A provision that the ordinance may be made inoperative not
13 less than 60 days, but not earlier than the first day of the calendar
14 quarter, following the county's lack of compliance with Article 11
15 (commencing with Section 29530) of Chapter 2 of Division 3 of
16 Title 3 of the Government Code or following an increase by any
17 city within the county of the rate of its sales or use tax above the
18 rate in effect at the time the county ordinance was enacted.

19 (f) A provision that the amount subject to tax shall not include
20 the amount of any sales tax or use tax imposed by the State of
21 California upon a retailer or consumer.

22 (g) A provision that there is exempted from the sales tax 80
23 percent of the gross receipts from the sale of tangible personal
24 property, other than fuel or petroleum products, to operators of
25 aircraft to be used or consumed principally outside the county in
26 which the sale is made and directly and exclusively in the use of
27 the aircraft as common carriers of persons or property under the
28 authority of the laws of this state, the United States, or any foreign
29 government.

30 (h) A provision that any person subject to a sales and use tax
31 under the county ordinance shall be entitled to credit against the
32 payment of taxes due under that ordinance the amount of sales and
33 use tax due to any city in the county; provided, that the city sales
34 and use tax is levied under an ordinance including provisions in
35 substance as follows:

36 (1) A provision imposing a tax for the privilege of selling
37 tangible personal property at retail upon every retailer in the city
38 at the rate of 1 percent or less, *and on and after July 1, 2004,*
39 *one-half of 1 percent or less,* of the gross receipts of the retailer
40 from the sale of all tangible personal property sold by that person

1 at retail in the city and a use tax of 1 percent or less of purchase
2 price upon the storage, use or other consumption of tangible
3 personal property purchased from a retailer for storage, use or
4 consumption in the city.

5 (2) Provisions identical to those contained in Part 1
6 (commencing with Section 6001), insofar as they relate to sales
7 and use taxes, except that the name of the city as the taxing agency
8 shall be substituted for that of the state (but the name of the city
9 shall not be substituted for the word “state” in the phrase “retailer
10 engaged in business in this state” in Section 6203 nor in the
11 definition of that phrase in Section 6203) and that an additional
12 seller’s permit shall not be required if one has been or is issued to
13 the seller under Section 6067.

14 (3) A provision that all amendments subsequent to the effective
15 date of the enactment of Part 1 (commencing with Section 6001)
16 relating to sales and use tax and not inconsistent with this part, shall
17 automatically become a part of the sales and use tax ordinance of
18 the city.

19 (4) A provision that the city shall contract prior to the effective
20 date of the city sales and use tax ordinance with the State Board of
21 Equalization to perform all functions incident to the
22 administration or operation of the sales and use tax ordinance of
23 the city which shall continue in effect so long as the county within
24 which the city is located has an operative sales and use tax
25 ordinance enacted pursuant to this part.

26 (5) A provision that the storage, use or other consumption of
27 tangible personal property, the gross receipts from the sale of
28 which has been subject to sales tax under a sales and use tax
29 ordinance enacted in accordance with this part by any city and
30 county, county, or city in this state, shall be exempt from the tax
31 due under this ordinance.

32 (6) A provision that the amount subject to tax shall not include
33 the amount of any sales tax or use tax imposed by the State of
34 California upon a retailer or consumer.

35 (7) A provision that there are exempted from the computation
36 of the amount of the sales tax the gross receipts from the sale of
37 tangible personal property to operators of aircraft to be used or
38 consumed principally outside the city in which the sale is made and
39 directly and exclusively in the use of the aircraft as common



1 carriers of persons or property under the authority of the laws of
2 this state, the United States, or any foreign government.

3 (8) A provision that, in addition to the exemptions provided in
4 Sections 6366 and 6366.1, the storage, use, or other consumption
5 of tangible personal property purchased by operators of aircraft
6 and used or consumed by the operators directly and exclusively in
7 the use of the aircraft as common carriers of persons or property
8 for hire or compensation under a certificate of public convenience
9 and necessity issued pursuant to the laws of this state, the United
10 States, or any foreign government is exempt from the use tax.

11 *SEC. 7. Section 7203 of the Revenue and Taxation Code is*
12 *amended to read:*

13 7203. The use tax portion of any sales and use tax ordinance
14 adopted under this part shall impose a complementary tax upon the
15 storage, use or other consumption in the county of tangible
16 personal property purchased from any retailer for storage, use or
17 other consumption in the county. That tax shall be at the rate of $1\frac{1}{4}$
18 percent, *and on and after July 1, 2004, three-quarters of 1 percent,*
19 of the sales price of the property whose storage, use or other
20 consumption is subject to the tax and shall include:

21 (a) Provisions identical to the provisions contained in Part 1
22 (commencing with Section 6001), other than Section 6201 insofar
23 as those provisions relate to the use tax, except that the name of the
24 county as the taxing agency enacting the ordinance shall be
25 substituted for that of the state (but the name of the county shall
26 not be substituted for the word “state” in the phrase “retailer
27 engaged in business in this state” in Section 6203 nor in the
28 definition of that phrase in Section 6203).

29 (b) A provision that all amendments subsequent to the date of
30 such ordinance to the provisions of the Revenue and Taxation
31 Code relating to the use tax and not inconsistent with this part shall
32 automatically become a part of the ordinance.

33 (c) A provision that the storage, use or other consumption of
34 tangible personal property, the gross receipts from the sale of
35 which has been subject to sales tax under a sales and use tax
36 ordinance enacted in accordance with this part by any city and
37 county, county, or city in this state, shall be exempt from the tax
38 due under this ordinance.

(d) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from 80 percent of the use tax.

SEC. 8. It is the intent of the Legislature in enacting this act that the state maintain its aggregate funding obligations under Section 8 of Article XVI of the California Constitution.

SEC. 9. If Section 97.68 of the Revenue and Taxation Code is amended in a manner that results in a reduction in the amount of ad valorem property tax revenue that is allocated to a city or county pursuant to this act, Sections 2, 3, 4, 5, 6, 7, and 8 of this act shall cease to be operative.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

~~is amended to read:~~

~~201. All property in this state that is not exempt under the laws of the United States or of this state is subject to taxation under this code.~~